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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,137	09/11/2003	Jeffrey Keith Switzer		6884

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EXAMINER

REIFSNYDER, DAVID A

ART UNIT PAPER NUMBER

1723

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,137

Applicant(s)

SWITZER ET AL.

Examiner

David A Reifsnyder

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1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

An examination of the claims of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

If the applicant decides not to get an attorney, he should look at the claims of patents that are in the same field as his invention to get an idea as to how what a properly drafted claim is.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1; it is vague and indefinite as to what the applicant intends to claim. The applicant fails to claim any elements of his device. Furthermore, since the word apparatus means the same thing as a device the recitation of "that is an apparatus" does not make sense. The recitations of "to be placed in a fluid flow" and "for magnetically treating fluids" while permissible, are what the device/apparatus does, not what it comprises.

The following is an example of a short claim which is clearly not patentably but does claim elements:

---1. A portable device for magnetically treating a fluid comprising: a non-magnetic tubular housing; and a plurality of magnets within the non-magnetic housing.---

Regarding claim 2; it is vague and indefinite as to what the applicant intends to claim in claim 2 as no structure has been claimed in claim 2.

Regarding claim 3; the recitation in claim 3 "directing the fluid with non-magnetic deflectors through passageways" is a method limitation and it is therefore vague and indefinite as to what structure the applicant intends to claim.

Regarding claim 4; the recitation of "the magnet or magnets" is vague and indefinite as to where the magnet or magnets came from because a magnet or magnets were never claimed as being part of the device. Furthermore, it is vague and indefinite

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as to what structure of the device is non-parallel and non-perpendicular to the magnet or magnets.

Regarding claim 5; the recitation of "the magnets" is vague and indefinite as to where the magnets came from, because magnets were never claimed as being part of the device/apparatus,

Regarding claim 6; claim 6 is vague and indefinite because it does not make sense and is vague and indefinite as to what the applicant intends to claim.

Regarding claim 7; the recitation of "**may** contain different shape magnets" is vague and indefinite as to whether the applicant intends to claim different shaped magnets or not. Furthermore, it is unclear as to what is meant by "different shaped magnets". Is the applicant trying to claim that the device contains a plurality of magnets having different shapes?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Whyte et al.

Regarding claims 1-7; Whyte et al. discloses an apparatus (12) for magnetically treating a liquid comprising: a generally tubular body (28) containing plurality of magnets (39) and a plurality of helical vanes (40, 42). (see figs. 3 and 7)

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Debney et al.

Regarding claims 1-7; Debney et al. discloses an apparatus (10) for magnetically treating a liquid comprising: a treatment housing (12) comprising a generally tubular body portion (28) containing a of magnets assembly (30). (see fig. 1)

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schindler.

Regarding claims 1-3, 6 and 7; Schindler discloses an apparatus for magnetically treating a liquid comprising: a treatment body (1) containing a plurality of magnetic inserts (11). (see figs 1-3)

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Aarsen.

Regarding claims 1-3, 6 and 7; Van Aarsen discloses an apparatus (10) for magnetically treating a liquid comprising: a conduit (40) containing a plurality of magnets (22, 24, 26, 28, 30, 32, 34 and 36) and an intensifier ring (16). (see figs 1-3)

Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Glass.


Regarding claims 1, 2 6 and 7; Glass discloses an apparatus for magnetically treating a liquid comprising: a conduit (10) having inner and outer walls, with a plurality of magnets attached to the outer wall (fig. 2)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Reifsnyder whose telephone number is (571) 272-1145. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David A Reifsnyder
Primary Examiner
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DAR